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Arlington, VA 22201-4714

In re Application of :
Hails et al. : DECISION
Application No. 10/088026 :
PCT No.: PCT/GB00/03249 :
Int. Filing Date: 22 August 2000 : UNDER
Priority Date: 15 September 1999 : 37 CFR 1.42
Atty. Docket No.: 124-933 :
For: New Methods Of Fabricating :
Devices And Semiconductor Layers :
Comprising Cadmium Mercury... :
:

This is in response to the papers filed on 08 October 2003.

DISCUSSION

Petition Under 37 CFR 1.137(b)

This application became abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 22 May 2002. Counsel requests revival of the application pursuant to 37 CFR 1.137(b). A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of an executed declaration of the inventors accompanies the petition.

Regarding requirement (2), the petition authorized the charging of the petition fee to counsel's Deposit Account.

Regarding requirement (3), the petition includes a statement that "The delay in prosecuting this case (i.e. filing the declaration) was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Accordingly, it would be appropriate to grant the requested relief under 37 CFR 1.137(b).

Papers Under 37 CFR 1.42

In a decision mailed on 02 October 2002, counsel's submission under 37 CFR 1.42 was dismissed without prejudice because the declaration filed on 03 June 2002 was executed by "Saamara N. Turney (legal representative)," but it did not clearly indicate whether she was acting in the capacity of legal representative *specifically for John Stevenson* in accordance with 37 CFR 1.42, it did include the citizenship, residence and mailing address of John Stevenson, and it did not properly identify the specific place of residence of joint inventor Douglas F. Foster (it merely refers to "Fife," presumably a municipality, without specifying the location of Fife). The instant renewed petition is accompanied by a newly executed declaration which cures the above-noted defects, and which is acceptable under 37 CFR 1.497(a) and (b). Consequently, it would now be appropriate to grant the requested relief under 37 CFR 1.42.

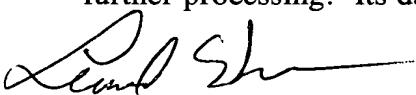
DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The papers under 37 CFR 1.42 are **ACCEPTED**.

Counsel's Deposit Account No. 14-1140 is being charged in the amount of \$1330.00 for the petition fee under 37 CFR 1.137(b), as authorized by the petition.

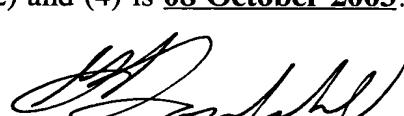
This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **08 October 2003**.



Leonard Smith
PCT Legal Examiner
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